

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2040 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

NEUTRAL GLASS & ALLIED INDUSTRIES LIMITED

Versus

PRAVINKUMAR G. CHAUDHARI

Appearance:

NANAVATI & NANAVATI for Petitioner

MR MUKUL SINHA for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 03/05/2000

ORAL JUDGEMENT

Learned advocate Mr. Shukla is appearing on behalf of the petitioner. Learned advocate Mr. Mukul Sinha is appearing on behalf of the respondent. Rule. Mr. Mukul Sinha waives service of Rule on behalf of the

respondent workman. With the consent of both the learned advocates, the matter has been heard finally today.

2. In the present petition, the order passed by Labour Court, Surat in Reference No.97 of 97 dated 23.02.2000 is challenged by the petitioner. In the said order, the application vide Exhibit 15 which has been given by the petitioner has been rejected by the Labour Court. The application given by the petitioner before the Labour Court with a Representative of the Union who is appearing before the Labour Court in the present Reference has no authority in law and it is not in consonance with the provisions of Section 36(1) of ID Act, 1947. There is also a contention raised by the petitioner that a representative of the Union wherein the Union itself is not registered under the provisions of the Trade Unions Act, 1926 and therefore, a representative has no right to appear on behalf of the respondent workman before the Labour Court in pending Reference. The said objection Exhibit 15 which has been raised by the petitioner has been examined by the Labour Court and ultimately the Labour Court has come to the conclusion that after a period of two years, the petitioner has given such application and therefore, such an application cannot be entertained. The Labour Court has also come to the conclusion that if the workman concerned has given authority to such representative then the objection which has been raised by the petitioner cannot be sustained.

3. When the matter has been taken up for hearing, learned advocate Mr. Mukul Sinha who appeared on behalf of the respondent workman has made a statement before this court that now before the Labour Court in pending Reference 97 of 97, the concerned employee will appear either personally or any other representative of the registered Trade Union or an advocate will appear on behalf of the respondent workman. Meaning thereby the representative who was held authorised by the respondent workman against whom objection has been raised by the petitioner vide Exhibit 15 will not appear in the pending Reference before the Labour Court, Surat. Considering this statement which has been made by the learned advocate Mr. Mukul Sinha, both the learned advocates requested this court to modify the said order passed by the Labour Court, Surat dated 23.02.2000. Therefore, considering the request of both the learned advocates, the order dated 23.02.2000 upon Exhibit 15 application of the petitioner is modified as under and it is directed to the respondent workman either to appear in pending Reference No.97 of 97 in person or to allow to appear any

other representative of any registered trade union under the provisions of Trade Unions Act, 1926 or to engage any advocate in the present reference. In view of the above direction, the order dated 23.02.2000 passed by the Labour Court, Surat at Exhibit 15 in pending Reference 97 of 97 is modified to that extent. The petition is partly allowed. Rule is made absolute to that extent.

(H.K. RATHOD, J.)

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